

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

CHARLES E. COOK

Plaintiff,

v.

JOHN McHUGH,
SECRETARY OF THE ARMY,

Defendant.

No. 3:10-0643

JUDGE HAYNES

MAGISTRATE JUDGE BRYANT

OPEN
This motion
IS DENIED
as moot.
U.S. District Judge
2-7-11

DEFENDANT'S MOTION TO ASCERTAIN STATUS

COMES NOW DEFENDANT, through undersigned counsel, and pursuant to Local Rule 7.01(c), moves to ascertain the status of this case, and particularly the pending Motion to Dismiss, filed by the defendant on November 2, 2010.

The plaintiff filed this civil action on July 2, 2010, see docket entry no. 1, but did not perfect service upon the United States Attorney until September 24, 2010. See docket entry no. 11. As noted above, on November 2, 2010, the defendant filed a Motion to Dismiss, pursuant to Rule 12(b)(1) and (6), Federal Rules of Civil Procedure, and a Supporting Memorandum. See docket entry nos. 15-16. To date, the plaintiff has not responded to this motion, nor sought an extension of time within which to do so.

However, on December 20, 2010 – approximately 48 days after the filing of the defendant's motion to dismiss – the plaintiff filed a Motion to Consolidate this civil action with Cook v. McHugh, No. 3:09-0649, a case then-pending before the Honorable John T. Nixon, Senior U.S. District Judge. See docket entry no. 20. The defendant responded to this motion on